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6 UNITED STATES DISTRICT COURT
7 WESTERN DISTRICT OF WASHINGTON
8 AT TACOMA

9 ROBERT BRUCE MCKAY-ERSKINE,

10 Petitioner,

11 v.

12 JEFFREY UTTECHT,

13 Respondent.

CASE NO. 3:18-cv-05024-BHS-TLF

**ORDER DIRECTING
RESPONDENT TO
SUPPLEMENT THE RECORD**

14 The District Court has referred this action filed pursuant to 28 U.S.C. § 2254 to United
15 States Magistrate Judge Theresa L. Fricke. Petitioner Robert Bruce McKay-Erskine filed his
16 federal habeas petition seeking relief from a state court conviction. *See* Dkt. 8. In the petition,
17 Mr. McKay-Erskine raises ineffective assistance of counsel as grounds for habeas relief.

18 Having reviewed the state court decisions and the Relevant State Court Record submitted
19 by respondent, the Court finds that a full review of the issues in McKay-Erskine's petition
20 requires the full state-court record, including trial and hearing transcripts. *See* Dkt. 13. Without
21 all relevant portions of the state-court record, the Court cannot meaningfully review the state
22 court's decision and determine if the state court's adjudication "resulted in a decision that was
23 contrary to, or involved an unreasonable application of, clearly established Federal law." 28 U.S.C.

§ 2254(d)(1); *see Nasby v. McDaniel*, 853 F.3d 1049, 1054 (9th Cir. 2017) (“Regardless of what documents the parties originally submit, it is the district court’s independent obligation to obtain the relevant portions of the record.”).

As the Court must have all relevant portions of the record to meaningfully review the state court’s decision, the Court orders the following:

- Respondent is directed to file, on or before October 5, 2018, a: (1) supplemental record with the trial transcripts and any additional state-court transcripts or records related to Petitioner’s grounds for relief, **including clerk’s papers**; and (2) supplemental answer.
- Petitioner may file a supplemental traverse (response to the supplemental answer) on or before October 26, 2018.
- Respondent may file a reply to the supplemental traverse on or before November 2, 2018.

Respondent is to file the supplemental record electronically as well as in hard copy. For assistance in electronic filing, respondent may contact ECF Support at cmecf@wawd.uscourts.gov, (206) 370-8440, or (866) 323-9293.

The Court notes that, because this case involves a minor victim, it may be necessary for respondent to redact certain portions of these records or to file them under seal. *See* LCR 5(g); LCR 5.2.

The Clerk of Court is directed to re-note the Petition for consideration for November 2, 2018.

Dated this 30th day of August, 2018.



Theresa L. Fricke
United States Magistrate Judge